THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, 4th July, 2006

W.P.No.1453 of 2006

Between:

Savanam Panduranga Reddy … Petitioner

and

The Collector & District Magistrate
(Civil Supplies), Ongole,
Prakasam district and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Order passed by the 2nd respondent in D.Dis (CS2)/2405/2002, dated 30-8-2004 as confirmed by the 1st respondent in Rc.No.CS2/3444/2004, dated 4-1-2006 as illegal and arbitrary and consequently to direct the respondents to continue the petitioner as Fair Price Shop dealer of Patha Chirala village, Chirala Mandal, Prakasam District.

It is the case of the petitioner that in pursuance of a notification issued by the 3rd respondent for filling up the post of Fair Price Shop dealer of Patha Chirala village, he applied for the same. Written and oral tests were conducted by the appointing authority on 22-4-2002. After being satisfied with his performance in the written and oral tests, he is appointed as fair price shop dealer of the said village, by an Order of the 3rd respondent dated 24-4-2002. From the date of appointment, he is permitted to lift the stocks and is conducting the business to the satisfaction of one and all. However, aggrieved by his appointment as fair price shop dealer, 5th respondent filed an appeal before the 2nd respondent stating that he is only a student of Degree course as on the date of selection and hence, he is not eligible to hold the authorization of the fair price shop dealership. Petitioner stated that he was a final year student of degree course as on the date of

notification, but as on the date of appointment, he has completed his Degree course and there was no bar to consider the candidature of a person prosecuting his studies. The bar is only after appointment. Respondent No.2 without taking all these things into consideration set aside the appointment of the petitioner by an Order dated 30-8-2004 and directed to issue fresh notification to fill up the post of Fair Price Shop dealer of Patha Chirala village. Questioning the said order, the petitioner filed a revision before the 1st respondent, who, by an Order dated 4-1-2006 dismissed the appeal in a mechanical way holding that a student cannot be appointed as fair price shop dealer and the petitioner suppressed the facts. Aggrieved by the same, the present Writ Petition is filed.

The facts are not much in dispute. There is no prohibition either under G.O.Ms.No.53, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 6-10-2003 or in the notification issued calling applications for filling up the vacancy of F.P. Shop dealer of Patha Chirala village dated 8-4-2002 for a student to apply for the dealership. The petitioner was prosecuting his final year Degree course as on the date of notification. He applied for the fair price shop dealership of Patha Chirala village and as on the date of interview and appointment, he has completed his degree course. Challenging his appointment, an appeal is filed by the 5th respondent. In the counter affidavit or in the arguments advanced by the learned Government Pleader or the learned counsel for the 5th respondent, nothing is brought to the notice of this Court that there is prohibition as to filing of application by a student pursuing the final year degree course or a person who has completed the degree as on the date of appointment is not entitled for being appointed as a fair price shop dealer. Under these circumstances, I am of the considered opinion that respondent

No.2 ought not to have cancelled the appointment of the petitioner only on the basis that he was a student at the time of filing the application. May be, the authorities are entitled to enquire into any irregularities that may be committed by the petitioner or any third person is running the fair price shop contrary to the Control Orders. Further, even on the aspect as to running of fair price shop by a third person, it is said that the Mandal Revenue Officer had conducted some discreet enquiries as to this aspect. But, there is no detailed enquiry conducted or the persons affected were heard in this regard.

For all the above reasons, the Orders passed by the 2nd respondent in D.Dis (CS2)/2405/2002, dated 30-8-2004 as confirmed by the 1st respondent in Proceedings Rc.No.CS2/3444/2004, dated 4-1-2006 are liable to be set aside and are accordingly set aside.

Accordingly, the Writ Petition is allowed. No costs.

04-7-2006

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